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NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			HOYE, MICHAEL W	
		ART UNIT		PAPER NUMBER
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DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/545,851	SONODA ET AL.
	Examiner	Art Unit
	Michael W. Hoye	2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 February 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 38-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 38-69 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10 April 2000 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Response to Arguments

1. Applicants' arguments filed on 2/3/04 have been fully considered but they are not persuasive.

Regarding new independent claims 38-40, 54-56, 61-64 and 66-69, the Applicants argue that, "the applied references, taken alone or in combination, fail to disclose, teach or suggest...receiving retrial or probability variation data contained in broadcast data for re-transmitting response information in case of unsuccessful transmission of the response information and so as to provide control of transmission of the response information based on a transmission capability of a communication line."

More specifically, the Applicants argue that, "*Gammie et al.* discloses receiving a call-in list in the form of commands **downloaded to a subscriber authorization computer 211** (col. 12, line 61 to col. 13, line 4). However, such a general disclosure in *Gammie et al.* of downloading commands to a subscriber authorization computer fails to teach, disclose or suggest [the noted features as described above]."

In response, the Examiner respectfully disagrees with the Applicants because the Applicants seem to be directing their arguments toward a different aspect in the disclosure of the *Gammie et al* reference. As to the specific language used in the claims, the claimed broadcasting station transmits to said television receivers retrial information by which said television receivers retransmit said response information when communication between said television receivers and said response information receiving equipment is unsuccessful and the retrial information is

contained in the transmitted data is met by the system operator at the broadcasting station transmitting retry information or data to the decoders that were unable to successfully call-in, where all decoders with a retry bit set should call in when a retry window is opened by the system controller (col. 8, lines 2-4, col. 11, lines 14-19 & 50-53, and col. 12, lines 26-27). The claimed broadcasting station controls transmission of said response information to said response information receiving equipment from said television receivers based on said transmission capability of said communication line is met by the supervisory control computer at the broadcasting station of Gammie transmitting a call-in command where each decoder selects a group number randomly from the range of group numbers allowed during a call-in window provided by the broadcasting station (see col. 10, lines 1-8).

As to the *Richards et al.* reference, the Applicants argue that, “*Richards et al.* discloses employing a back off array for controlling when a terminal sends messages to a cable head end, wherein a **DHTV 14 can uplink and download digital messages and other information** (col. 3, lines 5-19). However, such a general disclosure in *Richards et al.* of uplinking and downloading digital messages and other information fails to teach, disclose or suggest the noted features [as described in the argument above].”

In response, the Examiner respectfully disagrees with the Applicants because, as cited in the previous Office Action, in col. 5, line 36 – col. 6, line 53 of the *Richards et al* reference, the “receiver” or DHVT 14 (set-top box) receives the claimed “retrial information [or data] contained in the broadcast data for re-transmitting response information in case of unsuccessful transmission of the response information...” from the Administration and Maintenance Interface (AMI 23), which sends to the DHVT a particular back-off array used for controlling the DHVT’s

attempts and reattempts in successfully sending messages without collision with other messages from other subscribers using the communication line (18, 20, 22, see Fig. 1 and col. 2, lines 51-65), which further meets the claimed, “[providing control of transmission of the response information] based on a transmission capability of a communication line.”

As to the *Corrigan et al.* and *Lowell* references, the Applicants argue that, “*Corrigan et al.* and *Lowell* were not relied on in the Present Office Action with respect to the noted features, and properly so, but nonetheless fail to teach, disclose or suggest receiving retrial or probability variation data contained in broadcast data for re-transmitting response information in case of unsuccessful transmission of the response information and so as to provide control of transmission of the response information based on a transmission capability of a communication line.”

In response, the Examiner has used these references in combination with the *Richards et al.* reference, which discloses the noted features as described in the arguments above.

Drawings

2. The drawings are objected to because element 161 in Fig. 10 is misspelled and should be --RECEIVE MEANS--, the word “NORMAL” is misspelled in box S204 of Fig. 19, in Fig. 24 the word “MINUTES” is misspelled, the word “SCHEDULING” in box S325 of Fig. 26 is misspelled. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 38-39, 54-55, 61 are rejected under 35 U.S.C. 102(b) as being anticipated by Gammie et al (USPN 5,270,809), cited by the Examiner.

As to claim 38, note the Gammie et al reference which discloses a data transceiving system. Gammie discloses the claimed data that is sent or transmitted from a broadcasting station (Source program video audio data 202, Fig. 2) to a plurality of television receivers (IRD 206 and TV 220, Fig. 2) by broadcasting over satellite link 205 (see col. 4, line 66 – col. 5, line 17). The claimed response information sent from said television receivers to response information receiving equipment via a communication line is met by the IRD 206 sending response information via telephone network 207 to the phone processor 208, phone manager 209, business system 210, subscriber authorization computer 211 and supervisory control computer 212 (see col. 5, lines 18-44)...in response to the data transmission (see col. 7, line 64 – col. 8, line 41 and col. 9, lines 24-26). The claimed broadcasting station transmits to said television receivers retrial information by which said television receivers retransmit said response information when communication between said television receivers and said response information receiving equipment is unsuccessful and the retrial information is contained in the

transmitted data is met by the system operator at the broadcasting station transmitting retry information or data to the decoders that were unable to successfully call-in, where all decoders with a retry bit set should call in when a retry window is opened by the system controller (col. 8, lines 2-4, col. 11, lines 14-19 & 50-53, and col. 12, lines 26-27). The claimed broadcasting station controls transmission of said response information to said response information receiving equipment from said television receivers based on said transmission capability of said communication line is met by the supervisory control computer at the broadcasting station of Gammie transmitting a call-in command where each decoder selects a group number randomly from the range of group numbers allowed during a call-in window provided by the broadcasting station, in order to produce a uniform distribution of calls and avoid overloading the system with calls (see col. 10, lines 1-8).

As to claim 39, Gammie et al discloses a data transceiving system as described above in claim 38. In addition, Gammie discloses the claimed each of said television receivers controls retransmission of said response information to said response information receiving equipment based on said retrial information as met by the television receivers or IRDs (206 in Fig. 2) attempting to call-in or “retransmit” the response information, such as purchase data (col. 9, lines 25-27), to the phone processor (col. 9, lines 42-45) based on the system operator (central system) instructing the decoders to retry during a retry window (see col. 11, lines 14-26 & 50-53 and col. 12, lines 26-27).

As to claim 54, note the Gammie et al reference which discloses a television receiver. The claimed means for receiving data sent from a broadcasting device is met by the IRD 206 as connected with TV 220 in Fig. 2. The claimed means for outputting display data to a display

means based on said received data is met by IRD 206 outputting display data 209 to TV 220 as shown in Fig. 2. The claimed means for inputting response information by an operator...is met, in one example, by a subscriber pushing a "BUY" key on either the front panel of the IRD or on a remote control for transmitting a "BUY" signal to the IRD (col. 8, lines 58-66, also see col. 6, lines 5-11 and Figs. 2 and 3). The claimed communication means...is met by telephone network 207 as shown in Fig. 2 and the additional details of the claimed communication means and retransmission of response information is met as previously described above in claims 38 and 39.

As to claim 55, note the Gammie et al reference which discloses a television receiver. The claimed means for receiving data sent from a broadcasting device is met by the IRD 206 as connected with TV 220 in Fig. 2. The claimed means for displaying display data based on said received data is met by IRD 206 sending display data 209 to TV 220 for display as shown in Fig. 2. The claimed communication means...is met by telephone network 207 as shown in Fig. 2 and the additional details of the claimed communication means and retransmission of response information is met as previously described above in claims 38 and 39.

As to claim 61, note the Gammie et al reference which discloses an IRD 206 and television receiver 220 (see Fig. 2). The claimed tuner for selecting a transport stream from data sent from a broadcasting source is met by tuner 304 (as shown in Fig. 3), which selects a channel from the incoming signal sent from the program broadcasting device 202 (see Figs. 2 & 3, col. 5, lines 5-9 and col. 5, line 66 – col. 6, line 3). The claimed transport decoder...and AV decoder for outputting display data of a selected service to a monitor is met by downconverter/demodulator 302 and descrambler 303 (Fig. 3). The claimed control input unit is met by user keypad 307 as shown in Fig. 3 or a remote control for transmitting a signal to the

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IRD (see col. 8, lines 58-66, also see col. 6, lines 5-11 and Figs. 2 and 3). The claimed line communication unit for sending response information over a communication line...is met by modem 313 (Fig. 3). The claimed CPU is met by processor 304 and DCP 405 (see Figs. 3 and 4). The claimed memory is met by processor DCP 405, which may comprise a MC68HC11E9, which inherently comprises memory and a control program (col. 6, lines 62-65). The control program retransmits said response information via said line communication unit based on retrial information contained in the broadcast data, when communication with said response information receiving equipment is unsuccessful is met by the system operator at the broadcasting station transmitting retry information or data to the decoders that were unable to successfully call-in, where all decoders with a retry bit set by the control program should call in when a retry window is opened by the system controller (col. 8, lines 2-4, col. 11, lines 14-19 & 50-53, and col. 12, lines 26-27).

5. Claims 40-41, 48-50, 52, 56-58 and 62-69 are rejected under 35 U.S.C. 102(e) as being anticipated by Richards et al (USPN 6,237,146), cited by the Examiner.

As to claim 40, note the Richards et al reference which discloses a television receiver 30 (col. 3, lines 8-9). The claimed displaying images in response to receipt of data transmitted by a broadcasting device is met by the Digital Video Home Terminals (DHVT 14) as shown in Fig. 1, which are connected to a television set 30 for displaying images that were transmitted from the Administration and Maintenance Interface (AMI) 23 (col. 3, lines 5-19). The claimed transmitting response information to response information receiving equipment via a communication line...is met by the DHVT 14, which may uplink information over

communication line 18/22 to the AMI 22 as shown in Fig. 1 (see col. 2, lines 51-65 and col. 3, lines 5-19). The DHVT also retransmits said response information to the “response information receiving equipment” or AMI 23 when communication between the television receiver and the response information receiving equipment is unsuccessful (see col. 5, line 36 – col. 6, line 53). As for the remainder of the claim, in col. 5, line 36 – col. 6, line 53 of the Richards et al reference, the “receiver” or DHVT 14 (set-top box) receives the claimed “retrial information [or data] contained in the broadcast data for re-transmitting response information in case of unsuccessful transmission of the response information...” from the Administration and Maintenance Interface (AMI 23), which sends to the DHVT a particular back-off array used for controlling the DHVT’s attempts and reattempts in successfully sending messages without collision with other messages from other subscribers using the communication line (18, 20, 22, see Fig. 1 and col. 2, lines 51-65), which further meets the claimed, “[providing control of transmission of the response information] based on a transmission capability of a communication line.”

As to claim 41, the Richards et al reference further discloses that the initial transmission scheduling times with said response information receiving equipment are specified after being randomly generated based on received delay information from the AMI 23 (see col. 5, line 35 – col. 6, line 60 and col. 7, lines 2-25).

As to claim 48, the Richards et al reference discloses the claimed television and data receiver as described above in claim 4. Richards further discloses that the type of messages may involve Pay-per-view matters (col. 5, lines 28-35). Although, the Richards et al reference does not specifically disclose that the time remaining for transmission is computed from a

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transmission end time sent from said broadcast unit, and said retrial transmission conditions are altered according to said time remaining for transmission. For example, it is inherent that there is only a limited time that a user may purchase and view a pay-per-view event, therefore, there would only be a certain amount of time remaining for transmission which is determined by a transmission end time that would be sent from the broadcast unit and whereby the retrial conditions would be altered according to the remaining time left for transmission.

As to claim 49, the Richards et al reference further discloses the claimed notification data that is generated for making notification of the results of communications with the response information receiving equipment as met by acknowledgement or other information that is sent back to the DVHT 14 from the AMI 23 (see col. 7, lines 9-12).

As to claim 50, the Richards et al reference discloses that the claimed communication results are received from the response information receiving equipment or AMI 23 and notification data is generated as described above in claim 15.

As to claim 52, the Richards et al reference further discloses storing or memory means for storing said response information to be transmitted after a delay as shown by RAM 40 in Fig. 2, and the claimed notification means is met by the DVHT 14, which includes the “boot” program 43 contained in ROM 42, the randomized array in RAM 40, and the CPU 38, which operate to transmit a message and the AMI 23 sends an acknowledgement back if the message is received (see col. 5, lines 35-54 and col. 7, lines 2-25).

As to claim 56, note the Richards et al reference which discloses a data receiving device. The claimed means for receiving data sent from a broadcasting device is met by the Digital Video Home Terminals (DVHT 14) as shown in Fig. 1. The claimed communication means for

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transmitting response information via a communication line... is also met by the DHVT 14, which may uplink information over communication line 18/22 to the AMI 22 as shown in Fig. 1 (see col. 2, lines 51-65 and col. 3, lines 5-19). The DHVT or "communication means" also retransmits said response information to the "response information receiving equipment" or AMI 23 when communication between the television receiver and the response information receiving equipment is unsuccessful (see col. 5, line 36 – col. 6, line 53). As for the remainder of the claim, in col. 5, line 36 – col. 6, line 60 of the Richards et al reference, the "receiving means" or DHVT 14 (set-top box) receives the claimed "retrial information [or data] contained in the data transmitted by the broadcasting device" and the DHVT 14 or "communications means controls retransmission of the response information to the response information receiving equipment based on the retrial information, whereby the broadcasting station controls transmission of said response information to said response information receiving equipment from said television receivers based on the transmission capability of the communication line" as disclosed by the Administration and Maintenance Interface (AMI 23), which sends to the DHVT a particular back-off array used for controlling the DHVT's attempts and reattempts in successfully sending messages without collision with other messages from other subscribers using the communication line (18, 20, 22, see Fig. 1 and col. 2, lines 51-65), which further meets the claimed, "controls transmission of the response information...based on a transmission capability of a communication line."

As to claim 57, Richards et al further discloses the claimed retrial time specifying data computation means... as met by the retry algorithms (see col. 5, line 57 – col. 6, line 59 and col. 7, lines 12-32), and the claimed transmission means for retransmitting said stored response

information when said retrial time is reached is also met by the DHVT (see col. 6, lines 43-60 & col. 7, lines 12-32).

As to claim 58, Richards further discloses that the initial transmission scheduling times with said response information receiving equipment are specified after being randomly generated based on received delay information (see col. 5, line 49 – col. 6, line 60).

As to claims 62-65, the Richards et al reference discloses a data transceiving system, including a broadcasting device, a plurality of data receivers, response information receiving equipment connected to the data receivers via communications lines, and wherein the broadcast unit (AMI 22) sends probability variation data, wherewith the probability of generating a transmission time varies over time, and the data receivers DVHTs 14 determine scheduling times for transmitting to said response information receiving equipment based on said received probability variation data is met by the back-off arrays and randomized intervals of time as described in col. 5, line 35 – col. 7, line 32 and the remainder of the claim language is met as previously described in claim 56 above.

As to claim 66, the Richards et al reference discloses a data transceiving method for receiving broadcast data and sending response information via a communication line having a certain transmission capability. The claimed receiving broadcast data and sending response information via a communication line...when data inclusive of retrial information according to allowable volume on said communication lines is received is met by col. 3, lines 5-19, and when communication could not be established using said communication line, retransmitting said response information based on said received retrial information as disclosed in col. 5, line 35 – col. 7, line 25, and the claimed “broadcasting device controls transmission of said response

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information based on said transmission capability of said communication line" is met by the Administration and Maintenance Interface (AMI 23), which sends to the DHVT a particular back-off array used for controlling the DHVT's attempts and reattempts in successfully sending messages without collision with other messages from other subscribers using the communication line (18, 20, 22, see Fig. 1 and col. 2, lines 51-65, and col. 5, line 35 – col. 6, line 60).

As to claim 67, the Richards et al reference discloses a data transceiving method for sending response information via a communication line having a certain transmission capability, when a data broadcast is received, wherein the data includes probability variation data, wherewith a probability of generating a transmission time varies over time, and determining transmission scheduling times for transmitting over the communication line 22... is determined based on the received randomized time intervals and back-off array received from the AMI 22 (see col. 5, line 35 – col. 7, line 25), and the claimed "broadcasting station controls transmission of said response information based on said transmission capability of said communication line" is met by the Administration and Maintenance Interface (AMI 23), which sends to the DHVT a particular back-off array used for controlling the DHVT's attempts and reattempts in successfully sending messages without collision with other messages from other subscribers using the communication line (18, 20, 22, see Fig. 1 and col. 2, lines 51-65, and col. 5, line 35 – col. 6, line 60).

As to claims 68 and 69, the Richards et al reference discloses a recording medium for storing a program as met by the ROM 42 that has the boot program 43 (col. 5, lines 35-48) that performs all of the claimed processing which is met as described in the system and method claims previously described above.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 42, 51, 53 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richards et al.

As to claims 42 and 59, the Richards et al reference discloses the claimed television and data receiver as described above in claims 40 and 56 respectively. The Richards et al reference does not specifically disclose determination as to whether or not to make retrial transmission is made on basis of transmission end time provided by the broadcasting device. However, the Examiner takes Official Notice that it is notoriously well known in the art of interactive video distribution systems to allow only a limited time period for some types of retrial transmissions to occur for the advantage of not allowing a receiver to send a response to an interactive broadcast once a window of interaction time period has expired. Therefore, it is submitted that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to allow only a limited time period for some types of retrial transmissions to occur for the advantage given above.

As to claim 51, the Richards et al reference discloses the claimed television receiver as described above in claim 49. The Richards et al reference does not specifically disclose that a history of communications with said response information receiving equipment is stored in

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memory, and notification data is generated. However, the Examiner takes Official Notice that it is notoriously well known in the art of interactive video distribution systems to automatically create and maintain communication logs or histories of successful or failed communications with the receiving equipment and to generate appropriate notification data accordingly. Therefore, it is submitted that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to have a history of communications with said response information receiving equipment stored in memory, and generate notification data for the advantages given above.

As to claim 53, the Richards et al reference discloses the claimed television receiver as described above in claim 52. The Richards et al reference does not specifically disclose editing means for editing said response information when an edit instruction is sent from a user. However, the Examiner takes Official Notice that it is notoriously well known in the art of interactive video distribution systems to have editing means for editing response information when an edit instruction is sent from a user for the advantages of allowing a user to change the information that is to going to be sent to the information receiving equipment and giving the user more versatility in communicating messages for transmission. Therefore, it is submitted that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to include editing means for editing said response information when an edit instruction is sent from a user for the advantages given above.

8. Claims 43, 47 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richards et al., in view of Corrigan et al (USPN 5,966,636), both cited by the Examiner.

As to claims 43 and 60, the Richards et al reference discloses the claimed television and data receiver as described above in claims 40 and 56 respectively. The Richards et al reference does not specifically disclose detection means for detecting causes of non-establishment of communications with said response information receiving equipment. The Corrigan et al reference teaches the claimed detection means for detecting causes of non-establishment of communications with said response information receiving equipment as described in col. 11, lines 48-53, where if the number of retries has been exceeded a message will be sent stating the cause for the access failure. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the data receiver of Richards et al with the error detection means of Corrigan et al for the advantage of notifying users of potential causes of the failed communication attempts. One of ordinary skill in the art would have been led to make such a modification since it would be beneficial to incorporate error detection means into the data receiver system for locating the causes of communication failures.

As to claim 47, Corrigan further discloses the claimed notification data is generated for making notification of said detected cause by sending a message stating the cause of the access failure (col. 11, lines 50-53).

9. Claims 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richards et al., in view of Corrigan et al, in further view of Lowell (USPN 6,012,086), all cited by the Examiner.

As to claim 44, the Richards and Corrigan references disclose the claimed television receiver as described above in claim 43. The Richards and Corrigan references do not explicitly

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disclose retrial condition alteration means for altering conditions for subsequent retrial transmissions from the next time on, on the basis of the cause detected. Lowell teaches that alternate phone numbers or sources may be used to connect based on errors in attempting to connect to the source server (see col. 7, lines 8-25 and col. 8, lines 15-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the television receivers of Richards and Corrigan with the retrial condition alteration means for altering conditions for retrial transmissions from the next time on, on the basis of the cause detected, as disclosed by Lowell. One of ordinary skill in the art would have been led to make such a modification since it would be beneficial for the user if the receiver system automatically made attempts to alter the connection based on initial failed attempts and attempting to avoid the cause of those failed attempts.

As to claim 45, Richards discloses altering time intervals for retry attempts as previously described above, and Lowell further discloses that the retrial condition alteration means may generate notification data for altering the number of times for retrial transmissions (see col. 7, lines 10-12).

As to claim 46, Lowell further discloses that the retrial condition alteration means suspend retrial transmissions after a specified number of retry attempts have been made or if the server is down, etc... (see col. 7, lines 8-25 and col. 8, lines 15-30).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to Applicants' disclosure.

Corrigan et al (USPN 5,818,825) – Discloses a method and apparatus for assigning communications channels in a cable telephony system.

Maeda et al (USPN 5,999,224) – Discloses an apparatus for receiving and decoding a broadcast signal.

Safadi (USPN 5,572,517) – Discloses a configurable hybrid medium access control for cable metropolitan area networks.

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Michael W. Hoye whose telephone number is (703) 305-6954. The Examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, John Miller, can be reached at (703) 305-4795.

Any response to this action should be mailed to:

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is **(703) 308-HELP**.

Michael W. Hoye
April 19, 2004



JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600